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Attorneys for ROBERT J. NAGY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA (San Francisco Division)

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES CATHCART, et al.,

Defendants.

Case No. C-07-4762-PJH

**DECLARATION OF TOM
PROUNTZOS IN SUPPORT OF
DEFENDANT ROBERT J. NAGY'S
ADMINISTRATIVE MOTION TO
CONTINUE THE TRIAL DATE AND
ALL ASSOCIATED DEADLINES**

DEPT: Room 3, 17th Floor

TRIAL: March 23, 2009

I, TOM PROUNTZOS, hereby declare the following:

1. I am a California resident, am over eighteen years old, am an attorney with Jenkins, Goodman, Neuman & Hamilton, attorneys of record for Defendant ROBERT J. NAGY ("Mr. Nagy"), and am competent to testify to the statements made herein.

2. This Declaration is submitted in support of Mr. Nagy's Administrative Motion to Continue the Trial Date and All Associated Deadlines. Mr. Nagy seeks a continuance of the trial date from March 23, 2009 to May 18, 2009 (56 day continuance) and an attendant continuance of the following deadlines associated with the trial date as

1 follows: (a) expert disclosure deadline continued from August 20, 2008 to October 15,
 2 2008; (b) non-expert discovery cut-off continued from September 3, 2008 to October 29,
 3 2008; (c) expert discovery cut-off continued from October 1, 2008 to November 26, 2008;
 4 and (d) deadline to hear dispositive motions continued from November 19, 2008 to
 5 January 14, 2009.

6 3. A continuance is necessary in order to allow all parties to properly complete
 7 discovery and prepare for trial. Discovery in this matter is more complicated and is
 8 taking longer than anticipated by the parties. Discovery has already resulted in
 9 voluminous production and more is still expected. For example, Plaintiff UNITED
 10 STATES OF AMERICA ("United States") has produced eleven (11) digital discs
 11 containing over 435,000 separate files. Many of these files are multi-page files, including
 12 one that is 692 pages long. Additionally, many of these discs were only recently
 13 produced. Discs 7 and 8, which were produced in July, together contain more than
 14 100,000 separate files, and Discs 9, 10 and 11, which were produced on August 15, 2008,
 15 contain over 85,000 files not including the files contained in Disc 10. I am currently
 16 unable to open Disc 10 due to a defect in the way the information was saved onto the disc
 17 and do not know how many files are contained therein. However, the "properties" for that
 18 disc indicate it contains 2.84 GB of information.

19 4. Under the current schedule, the parties are unable to meaningfully evaluate
 20 these documents and are unable to conduct any necessary follow-up investigation and
 21 discovery. Furthermore, the parties require additional time so that they may obtain
 22 qualified experts and those experts may review all relevant materials.

23 5. All parties, including the United States, agree in principle to a continuance.
 24 Most have indicated that they agree to the particulars of this Motion. Counsel for
 25 Defendants CHI-HSIU HSIN and OPTECH LIMITED is preparing his own motion for an
 26

1 even longer continuance than the one sought herein and will not stipulate with regard to
2 this Motion on the chance that doing so may prejudice his own motion.

3 6. If a continuance is not granted, the parties will not be able to properly
4 prepare for trial. On the current schedule, the parties will be cut off from pursuing
5 follow-up discovery after eventually completing review of the produced documents. The
6 parties will be forced to select experts without the benefit of having fully reviewed and
7 analyzed the discovery materials. The experts will have to render opinions based on
8 partial discovery because there will have been no follow-up. The parties will therefore
9 suffer prejudice insofar as their respective trial preparations will be abridged by these
10 circumstances and they will be forced to try this matter with less than full information
11 and preparation.

12 7. There have been no previous scheduling modifications in this case. The
13 parties did submit a prior stipulation and proposed order modifying the scheduling order.
14 The Court did not sign this order, however, based on its requirement that dispositive
15 motions be heard at least 120 days before trial. Because the present Motion seeks to
16 continue the trial date and all associated deadlines, if this continuance is granted, the
17 deadline for hearing dispositive motions will still be at least 120 days before trial.

18 8. The parties are informed and believe that May 18, 2009 is a date to which the
19 trial may be continued that is convenient for the Court as there is currently only one trial
20 scheduled that week and the United States estimates that trial of the instant case will only
21 last one week.

22 9. Continuing the trial date to May 18, 2009 will push the trial back by less
23 than two months. This continuance would involve only a minimal disruption of the case
24 schedule while allowing the parties to properly prepare for trial.

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1 10. Due to the rapidly approaching trial date and related deadlines, I requested
2 that the other parties stipulate that this motion be heard on shortened notice. All of the
3 other parties have agreed that this Motion may be heard on shortened notice.

4 The foregoing is made under penalty of perjury this **5th day of September 2008**.

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6 JENKINS GOODMAN NEUMAN
7 & HAMILTON LLP

8 By: /s/ Tom Prountzos
9 TOM PROUNTZOS
10 Attorneys for ROBERT J. NAGY

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